

ASSEMBLY BILL

No. 1552

Introduced by Committee on Utilities and Commerce (Fuentes (Chair), Duvall (Vice Chair), Blakeslee, Buchanan, Carter, Fong, Furutani, Huffman, Krekorian, Smyth, and Torrico)

March 10, 2009

An act to amend Sections 395.5, 398.2, 398.3, 398.4, and 398.5 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as introduced, Committee on Utilities and Commerce. Electricity.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law defines an “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, excluding electrical corporations, local publicly owned electric utilities, and certain cogenerators. Provisions of the existing Public Utilities Act restructuring the electrical services industry require that electric service providers register with the commission, and provide for the authorization of direct transactions between electric service providers and retail end-use customers. The act requires the commission, pursuant to electrical restructuring, to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers other than community choice aggregators, as defined, to acquire service from certain electricity suppliers, after a period of time to be determined by the commission, until the Department of Water Resources no longer supplies electricity

under that law. Notwithstanding this suspension, existing law, until January 1, 2010, authorizes a nonprofit charitable organization, to acquire electric commodity service through a direct transaction with an electric service provider if electric commodity service is donated free of charge without compensation.

This bill would extend until January 1, 2012, the authorization for a nonprofit charitable organization, to acquire electric commodity service through a direct transaction with an electric service provider if electric commodity service is donated free of charge without compensation.

(2) Existing law establishes a program under which retail suppliers disclose accurate, reliable, and simple to understand information on the generation attributes of the electricity they propose to sell, including eligible renewables, as defined. Existing law provides that a retail supplier that does not make any claims that identify its electricity sources as different than net system power, as defined, is authorized to disclose net system electricity sources.

This bill would replace the term “retail supplier” with “retail seller” and would replace the term “eligible renewables” with “eligible renewable energy resources” and would incorporate definitions for those terms that are applicable to the California Renewables Portfolio Standard Program. The bill would make other nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 395.5 of the Public Utilities Code is
2 amended to read:
3 395.5. (a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) “Nonprofit charitable organization” means any charitable
6 organization described in Section 501(c)(3) of the federal Internal
7 Revenue Code that has as its primary purpose serving the needs
8 of the poor or elderly.
9 (2) “Electric commodity” means electricity used by the customer
10 or a supply of electricity available for use by the customer, and
11 does not include services associated with the transmission and
12 distribution of electricity.
13 (b) Notwithstanding Section 80110 of the Water Code, a
14 nonprofit charitable organization may acquire electric commodity

1 service through a direct transaction with an electric service provider
2 if electric commodity service is donated free of charge without
3 compensation.

4 (c) A nonprofit charitable organization that acquires donated
5 electric commodity service through a direct transaction pursuant
6 to this section shall be responsible for paying all of the following:

7 (1) Those charges and surcharges that would be imposed upon
8 a retail end-use customer of a community aggregator pursuant to
9 subdivisions (d), (e), (f), and (g) of Section 366.2.

10 (2) The transmission and distribution charges of an electrical
11 corporation or a local publicly owned electric utility.

12 (3) A nonbypassable charge imposed pursuant to Article 7
13 (commencing with Section 381), Article 8 (commencing with
14 Section 385), or Article 15 (commencing with Section 399).

15 (4) Costs imposed upon a load-serving entity pursuant to Section
16 380.

17 (d) Existing direct access rules and all service obligations
18 otherwise applicable to electric service providers shall govern
19 transactions under this section.

20 (e) This section shall remain in effect only until January 1, ~~2010~~
21 2012, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, ~~2010~~ 2012, deletes or extends
23 that date.

24 SEC. 2. Section 398.2 of the Public Utilities Code is amended
25 to read:

26 398.2. ~~The definitions set forth in this section shall govern the~~
27 ~~construction of this article. For purposes of this article, the~~
28 ~~following terms have the following meanings:~~

29 (a) “Eligible renewable energy resource” shall have the same
30 meaning as defined in Section 399.12.

31 (b) “Net system electricity” means the mix of electricity fuel
32 source types established by the Energy Commission representing
33 the sources of electricity consumed in California that are not
34 disclosed as specific purchases pursuant to Section 398.4.

35 (c) “Retail seller” has the same meaning as defined in Section
36 399.12, and as further authorized pursuant to Section 399.12.5.

37 (a)

38 (d) “System operator” means the Independent System Operator
39 with responsibility for the efficient use and reliable operation of
40 the transmission grid, as provided by Section 345, or a local

1 publicly owned electric utility that does not utilize the Independent
2 System Operator.

3 ~~(b)~~

4 (e) “Specific purchases” means electricity transactions which
5 are traceable to specific generation sources by any auditable
6 contract trail or equivalent, such as a tradable commodity system,
7 that provides commercial verification that the electricity source
8 claimed has been sold once and only once to a retail consumer.
9 Retail ~~suppliers~~ *sellers* may rely on annual data to meet this
10 requirement, rather than hour-by-hour matching of loads and
11 resources.

12 ~~(e) “Net system power” means the mix of electricity fuel source~~
13 ~~types established by the California Energy Resources Conservation~~
14 ~~and Development Commission representing the sources of~~
15 ~~electricity consumed in California that are not disclosed as specific~~
16 ~~purchases pursuant to Section 398.4.~~

17 SEC. 3. Section 398.3 of the Public Utilities Code is amended
18 to read:

19 398.3. (a) Beginning January 1, 1998, or as soon as practicable
20 thereafter, each generator that provides meter data to a system
21 operator shall report to the system operator electricity generated
22 in kilowatthours by hour by generator, the fuel type or fuel types
23 and fuel consumption by fuel type by month on an historical
24 recorded quarterly basis. Facilities using only one fuel type may
25 satisfy this requirement by reporting fuel type only. With regard
26 to any facility using more than one fuel type, reports shall reflect
27 the fuel consumed as a percentage of electricity generation.

28 ~~(b) The California Energy Resources Conservation and~~
29 ~~Development Energy~~ Commission shall have authorization to
30 access the electricity generation data in kilowatthours by hour for
31 each facility that provides meter data to the system operator, and
32 the fuel type or fuel types.

33 ~~(c) With regard to out-of-state generation, the California Energy~~
34 ~~Resources Conservation and Development Energy~~ Commission
35 shall have authorization to access the electricity generation data
36 in kilowatthours by hour at the point at which out-of-state
37 generation is metered, to the extent the information has been
38 submitted to a system operator.

39 (d) Trade secrets as defined in subdivision (d) of Section 3426.1
40 of the Civil Code contained in the information provided to the

1 system operators pursuant to this section shall be treated as
2 confidential. These data may be disclosed only by the system
3 operators and only by authorization of the generator except that
4 the ~~California Energy Resources Conservation and Development~~
5 *Energy* Commission shall have authorization to access these data,
6 shall consider all these data to be trade secrets, and shall only
7 release these data in an aggregated form such that trade secrets
8 cannot be discerned.

9 SEC. 4. Section 398.4 of the Public Utilities Code is amended
10 to read:

11 398.4. (a) Every retail-supplier *seller* that makes an offering
12 to sell electricity that is consumed in California shall disclose its
13 electricity sources. A retail-supplier *seller* that does not make any
14 claims that identify its electricity sources as different than net
15 system power may disclose net system-power *electricity*. Every
16 retail-supplier *seller* that makes an offering to sell electricity that
17 is consumed in California and makes any claims that identify any
18 of its electricity sources as different than net system-power
19 *electricity* shall disclose these sources as specific purchases.

20 (b) The disclosures required by this section shall be made to
21 potential end-use consumers in all product-specific written
22 promotional materials that are distributed to consumers by either
23 printed or electronic means, except that advertisements and notices
24 in general circulation media shall not be subject to this requirement.

25 (c) The disclosures required by this section shall be made at
26 least quarterly to end-use consumers of the offered electricity.

27 (d) The disclosures required by this section shall be made
28 separately for each offering made by the retail-supplier *seller*.

29 (e) On or before January 1, 1998, the ~~California Energy~~
30 ~~Resources Conservation and Development~~ *Energy* Commission
31 shall specify guidelines for the format and means for disclosure
32 required by Section 398.3 and this section, based on the
33 requirements of this article and subject to public hearing.

34 (f) The costs of making the disclosures required by this section
35 shall be considered to be-generation-related *generation related*.

36 (g) The disclosures required by this section shall be expressed
37 as a percentage of annual sales derived from each of the following
38 categories, unless no specific purchases are disclosed, in which
39 case only the first category shall be disclosed:

40 (1) Net system-power *electricity*.

1 (2) Specific purchases.

2 (h) (1) Each of the categories specified in subdivision (g) shall
3 be additionally identified as a percentage of annual sales that is
4 derived from each fuel type of the categories specified as follows:

5 (A) Coal.

6 (B) Large hydroelectric (greater than 30 megawatts).

7 (C) Natural gas.

8 (D) Nuclear.

9 (E) Other.

10 (F) ~~Eligible renewables, which means renewable resource~~
11 ~~technologies defined as electricity produced from other than a~~
12 ~~conventional power source within the meaning of Section 2805,~~
13 ~~provided that a power source utilizing more than 25 percent fossil~~
14 ~~fuel may not be included; renewable energy resources, which~~ shall
15 be additionally identified as a percentage of annual sales that is
16 derived from each fuel type of the subcategories specified as
17 follows:

18 (i) Biomass and waste.

19 (ii) Geothermal.

20 (iii) Small hydroelectric (less than or equal to 30 megawatts).

21 (iv) Solar.

22 (v) Wind.

23 (2) The category “Other” shall be used for fuel types other than
24 those listed above that represent less than 2 percent of net system
25 ~~power electricity~~. The ~~California Energy Resources Conservation~~
26 ~~and Development~~ Energy Commission may specify additional
27 categories or change these categories, consistent with the
28 requirements of this article, *California Renewables Portfolio*
29 *Standard Program (Article 16 (commencing with Section 399.11))*,
30 and subject to public hearing, if it determines that the changes will
31 facilitate the disclosure objectives of this section.

32 (i) All electricity sources disclosed as specific purchases shall
33 meet the requirements of subdivision (b) of Section 398.2.

34 (j) Specific purchases identified pursuant to this section shall
35 be from sources connected to the Western Electricity Coordinating
36 Council interconnected grid.

37 (k) Net system ~~power electricity~~ shall be disclosed for the most
38 recent calendar year available. Disclosure of net system ~~power~~
39 *electricity* shall be accompanied by this qualifying note: “The State
40 of California determines this net system ~~power electricity~~ mix

annually; your actual electricity purchases may vary.” The ~~California Energy Resources Conservation and Development~~ Energy Commission may modify this note, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(l) For each offering made by a retail-supplier seller for which specific purchases are disclosed, the retail-supplier seller shall disclose projected specific purchases for the current calendar year. Projected specific purchases need not be disclosed by numerical percentage at the subcategory level identified in subparagraph (F) of paragraph (1) of subdivision (h). ~~On or before April 15, 1999, and annually thereafter, every~~ Every retail-supplier seller that discloses specific purchases shall also disclose annually to its customers, separately for each offering made by the retail-supplier seller, its actual specific purchases for the previous calendar year consistent with information provided to the ~~California Energy Resources Conservation and Development~~ Energy Commission pursuant to Section 398.5. Disclosure of projected specific purchases and actual specific purchases shall each be accompanied by statements identifying whether the data are projected or actual, as developed by the ~~California Energy Resources Conservation and Development~~ Energy Commission, subject to public hearing.

(m) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

SEC. 5. Section 398.5 of the Public Utilities Code is amended to read:

398.5. (a) Retail-suppliers sellers that disclose specific purchases pursuant to Section 398.4 shall report ~~on March 1, 1999, and annually thereafter, to the California Energy Resources Conservation and Development~~ on or before March 1 of each year to the Energy Commission, for each electricity offering, for the previous calendar year each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

1 (3) For each electricity offering the disclosures made to
2 consumers pursuant to Section 398.4.

3 (b) Information submitted to the ~~California Energy Resources~~
4 ~~Conservation and Development~~ Energy Commission pursuant to
5 this section that is a trade secret as defined in subdivision (d) of
6 Section 3426.1 of the Civil Code shall not be released except in
7 an aggregated form such that trade secrets cannot be discerned.

8 (c) ~~On or before January 1, 1998, the California Energy~~
9 ~~Resources Conservation and Development~~ The Energy Commission
10 shall specify guidelines and standard formats, based on the
11 requirements of this article and subject to public hearing, for the
12 submittal of information pursuant to this article.

13 (d) In developing the rules and procedures specified in this
14 section, the ~~California Energy Resources Conservation and~~
15 ~~Development~~ Energy Commission shall seek to minimize the
16 reporting burden and cost of reporting that it imposes on retail
17 ~~suppliers~~ sellers.

18 (e) ~~On or before October 15, 1999, and annually thereafter, the~~
19 ~~California Energy Resources Conservation and Development of~~
20 ~~each year; the~~ Energy Commission shall issue a report comparing
21 information available pursuant to Section 398.3 with information
22 submitted by retail ~~suppliers~~ sellers pursuant to this section, and
23 with information disclosed to consumers pursuant to Section 398.4.
24 This report shall be forwarded to the ~~California Public Utilities~~
25 ~~Commission~~ commission.

26 (f) ~~Beginning April 15, 1999, and annually thereafter, the~~
27 ~~California Energy Resources Conservation and Development On~~
28 ~~or before April 15 of each year, the~~ Energy Commission shall issue
29 a report calculating net system ~~power~~ electricity. The ~~California~~
30 ~~Energy Resources Conservation and Development~~ Energy
31 Commission will establish the generation mix for net generation
32 imports delivered at interface points and metered by the system
33 operators. ~~The California Energy Resources Conservation and~~
34 ~~Development~~ Commission shall issue an initial report calculating
35 preliminary net system power for calendar year 1997 on or before
36 January 1, 1998. This report shall be updated on or before October
37 15, 1998.

38 (g) The provisions of this section shall not apply to generators
39 providing electric service onsite, under an over-the-fence

1 transaction as described in Section 218, or to an affiliate or
2 affiliates, as defined in subdivision (a) of Section 372.
3 (h) ~~The California Energy Resources Conservation and~~
4 ~~Development~~ Energy Commission may verify the veracity of
5 environmental claims made by retail-suppliers *sellers*.

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